

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7868

BILL NUMBER: SB 480

DATE PREPARED: Feb 23, 1999

BILL AMENDED: Feb 22, 1999

SUBJECT: Disclosure of persuasion polls.

FISCAL ANALYST: Beverly Holloway

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill defines a persuasion poll to mean a telephone survey that: (1) includes more than 500 calls; (2) references a candidate or group of candidates in any election or caucus; and (3) is designed to provide negative information about a candidate or group of candidates or to influence the respondent to vote for or against a candidate or group of candidates.

A person is prohibited from sponsoring, authorizing, conducting, or administering a persuasion poll unless the caller identifies at the end of the call the person sponsoring and authorizing the call. If a person sponsoring or authorizing a call is a candidate's committee, the caller must also identify the candidate's name and the office sought by the candidate. If a candidate's committee neither sponsors nor authorizes a call, the caller must state that the call is not authorized by any candidate or candidate's committee. A person is prohibited from stating or implying false or fictitious names or addresses when making the required disclosures. A person who violates these provisions commits a Class B misdemeanor.

This bill provides that a candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee that sponsors a persuasion poll that violates these provisions is subject to a civil penalty of up to three times the amount expended in sponsoring the persuasion poll. It also provides that a person who authorizes, conducts, or administers a persuasion poll that violates these provisions must pay a civil penalty of \$50 for each call in violation of the provisions, with such penalty not to exceed \$1000 plus any investigative costs incurred by the Election Division or a county election board.

Effective Date: July 1, 1999.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) This bill provides that if a candidate, candidate's committee, political party, or political action committee that sponsors a persuasion poll violates the provisions of this

bill, a candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee is subject to a civil penalty of up to three times the amount expended in sponsoring the persuasion poll. It also provides that a person who authorizes, conducts, or administers a persuasion poll that violates these provisions must pay a civil penalty of \$50 for each call in violation of the provisions, with such penalty not to exceed \$1000 plus any investigative costs incurred by the Election Division. The fiscal impact of this provision is indeterminable and dependent on the number of violations. The civil penalties are deposited in the state Campaign Finance Enforcement Account.

This bill provides that a person who sponsors, authorizes, conducts or administers a persuasion pole that violates the provisions of this bill commits a Class B Misdemeanor. This bill also provides that a person knowingly or intentionally blocks or attempts to block the person's telephone or identity by a respondent's caller ID service commits a Class B Misdemeanor. However, the offense is a Class A Misdemeanor if the person has a previous unrelated conviction under the provisions of this bill. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class B Misdemeanor is \$1,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: (Revised) A Class B Misdemeanor is punishable by up to 180 days in jail and a Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: (Revised) This bill provides that if a candidate, candidate's committee, political party, or political action committee that sponsors a persuasion poll violates the provisions of this bill, a candidate, candidate's committee, regular party committee, political action committee, or legislative caucus committee is subject to a civil penalty of up to three times the amount expended in sponsoring the persuasion poll. It also provides that a person who authorizes, conducts, or administers a persuasion poll that violates these provisions must pay a civil penalty of \$50 for each call in violation of the provisions, with such penalty not to exceed \$1000 plus any investigative costs incurred by a county election board. The fiscal impact of this provision is indeterminable and dependent on the number of violations. The civil penalties are deposited in the county Campaign Finance Enforcement Account.

If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana Election Commission; Election Division, Secretary of State's Office.

Local Agencies Affected: County election board; Trial courts; Local law enforcement agencies.

Information Sources: